

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re application of:

Steven M. RUBEN

Appl. No.: 10/662,429

Filed: September 16, 2003

For: **Apoptosis Inducing Molecule I**

Confirmation No.: 2663

Art Unit: 1644

Examiner: HUYNH, PHUONG N.

Atty. Docket: 1488.1890003/EJH/SAC

**Declaration of Elizabeth J. Haanes
Ruben Exhibit #14**

BEST AVAILABLE COPY

Ruben EXHIBIT #14

Declaration of Elizabeth J. Haanes

I, Elizabeth J. Haanes, declare and state as follows:

1. I have been employed by Sterne, Kessler, Goldstein & Fox (SKG&F) since May 1999, and I am currently an attorney in the Biotechnology Group. Human Genome Sciences, Inc. (HGS), assignee of the present application, is a current client of the firm. I am the undersigned attorney of the "*Prima Facie* Showing of Entitlement to Judgment Under 37 C.F.R. § 41.202(d)" ("the showing") and "Request for Interference With A Patent Pursuant to 37 C.F.R. § 41.202(a)." The present application and the application involved in Interference 105,077 are both assigned to Human Genome Sciences. The law firm of Sterne, Kessler, Goldstein & Fox is handling both matters.

2. I have personally reviewed each of the declarations being submitted with the showing. I have also personally reviewed each of the various other Exhibits referred to in the declarations and the showing. I can attest that the declarations are authentic copies of previously executed declarations. I have reviewed the files of Interference 105,077 which stated that the declarations were served on opposing counsel as part of the Junior Party's Evidence on the Issue of Priority and/or Derivation on June 25, 2004 in connection with the ongoing interference between Wiley's 5,763,223 patent and Ruben's 08/816,981 application. The declarations are identical except for the following clerical modifications made by persons working under my direction. Cover pages referring to the present application have been added to the declarations, and the Exhibit reference numbers throughout the declarations have been redacted and replaced with the Exhibit numbers referred to in the showing. I can further attest that Exhibits RE18 to

RE153 and RE157 to RE158 referred to in the declarations, as well as in the showing, are authentic copies of the corresponding exhibits referred to in the above-referenced interference (*see* Exhibit A). However, the designation of the Exhibit numbers was changed from RX2018-RX2153 and RX157-RX2158 in Interference 105,077 to RE18-RE153 and RE157-RE158 in the present matter.

April 1, 2005
Date



Elizabeth J. Haanes
Registration No. 42,613

Exhibit A Copy of Ruben Exhibit List

Steven M. Ruben
Appl. No. 10/662,429

<u>Ruben Exhibit #</u>	<u>RE #</u>	<u>Description</u>
Ruben Exhibit 1	RE1	Wiley U.S. Patent No. 6,284,236
Ruben Exhibit 2	RE2	Wiley U.S. Patent No. 5,763,223
Ruben Exhibit 3	RE3	Smith et al., 1994, "The TNF Receptor Superfamily of Cellular and Viral Proteins: Activation, Costimulation and Death," <i>Cell</i> 76: 959-962
Ruben Exhibit 4	RE4	Ashkenazi U.S. Patent No. 6,030,945
Ruben Exhibit 10	RE10	Wiley et al., "Identification and Characterization of a New Member of the TNF Family that Induces Apoptosis," <i>Immunity</i> 3:673-682 (December 1995).
Ruben Exhibit 11	RE11	Day to Day Calendar of Activities
Ruben Exhibit 12	RE12	Timeline of Activities
Ruben Exhibit 13	RE13	Current Copy of Steve Ruben's Curriculum Vitae
Ruben Exhibit 14	RE14	Declaration of Elizabeth J. Haanes
Ruben Exhibit 15	RE15	Flowchart of Discovery Platforms
Ruben Exhibit 16	RE16	Exhibit List for 202(d) showing
Ruben Exhibit 17	RE17	Ruben Application No. 08/816,981
Ruben Exhibit 18	RE18	Declaration of Scott Conklin
Ruben Exhibit 19	RE19	Copy of agreement signed by Dr. Daniel Bednarik on July 23, 1993 on behalf of Human Genome Sciences, Inc. and Pocono Rabbit Farm & Laboratories
Ruben Exhibit 20	RE20	Pocono Rabbit Farm & Laboratories Lab Book Record for rabbits 11940 and 11941
Ruben Exhibit 21	RE21	Copy of Pocono Rabbit Farm & Laboratories' health cards for rabbits 11940 and 11941
Ruben Exhibit 22	RE22	Printout of Pocono Rabbit Farm & Laboratories electronic record of all bleeds of rabbits 11940 and 11941 shipped by Pocono Rabbit Farm & Laboratories to Human Genome Sciences, Inc.
Ruben Exhibit 23	RE23	Printout of Pocono Rabbit Farm & Laboratories' standard protocol for antibody production
Ruben Exhibit 24	RE24	Letter from Ann M. Kim to Cindy Haab of Pocono Rabbit Farm & Laboratories enclosing "FasLig" protein for antibody production
Ruben Exhibit 25	RE25	Declaration of Kong B. Tan
Ruben Exhibit 26	RE26	Tan's first Northern analysis in August, 1995
Ruben Exhibit 27	RE27	Tan's second Northern analysis in mid September, 1995
Ruben Exhibit 28	RE28	Tan's third Northern analysis in September/October, 1995
Ruben Exhibit 29	RE29	Tan's fourth Northern analysis in September/October, 1995
Ruben Exhibit 30	RE30	Declaration of Edward Dul
Ruben Exhibit 31	RE31	Dul's expression of AIM I in soluble form in E. coli or other systems for use in receptor binding and activity assays
Ruben Exhibit 32	RE32	Summary of Dul's AIM I expression and Western blotting
Ruben Exhibit 33	RE33	Declaration of Kathryn Beckman
Ruben Exhibit 34	RE34	Letter to Gregory Ferraro forwarding invention disclosure form
Ruben Exhibit 35	RE35	E-mail dated January 31, 1996 from Robert Benson to Steven Ruben
Ruben Exhibit 36	RE36	New patent disclosure checklist
Ruben Exhibit 37	RE37	Cover letter from Gregory Ferraro to Robert Benson regarding draft application
Ruben Exhibit 38	RE38	Carella standard docketing procedure as applied to the preparation of AIM-I application
Ruben Exhibit 39	RE39	Carella billing record for AIM-I application drafting
Ruben Exhibit 40	RE40	Human Genome Sciences, Inc. purchase order form for ATCC deposit
Ruben Exhibit 41	RE41	ATCC® form BP/1 as filled out for the AIM-I deposit

Exhibit List for 37 C.F.R. § 41.202(d) showing

Ruben Exhibit 42	RE42	ATCC® deposit receipt for AIM-I plasmid 413412
Ruben Exhibit 43	RE43	Declaration of Elliot Olstein
Ruben Exhibit 44	RE44	Letter from Gimmi to Benson regarding AIM-I patent application
Ruben Exhibit 45	RE45	Letter from Beckman to Ferraro regarding AIM-I patent application
Ruben Exhibit 46	RE46	Carella new matter form for AIM-I U.S. provisional application
Ruben Exhibit 47	RE47	Carella new matter form for AIM-I PCT application
Ruben Exhibit 48	RE48	Carella invoice for drafting AIM-I application
Ruben Exhibit 49	RE49	Letter from Ferraro to Benson with draft AIM-I application
Ruben Exhibit 50	RE50	Carella invoice for drafting/review/filing of AIM-I application
Ruben Exhibit 51	RE51	Correspondence between Herron of Carella and Benson and Ruben, both of Human Genome Sciences, Inc.
Ruben Exhibit 52	RE52	Copy of U.S. Provisional Application No. 60/013,405, filed March 14, 1996
Ruben Exhibit 53	RE53	Filing Receipt for U.S. Provisional Application No. 60/013,405
Ruben Exhibit 54	RE54	Declaration of Markus Buergin
Ruben Exhibit 55	RE55	Certain page of Markus Buergin's laboratory notebook (Human Genome Sciences, Inc. notebook 443)
Ruben Exhibit 56	RE56	Declaration of James Grinnell
Ruben Exhibit 57	RE57	Giovarelli et al., 1999, <i>J. Immunol.</i> 163(9):4886-93.
Ruben Exhibit 58	RE58	Declaration of Reiner L. Gentz
Ruben Exhibit 59	RE59	Declaration of Alemseged Truneh
Ruben Exhibit 60	RE60	Resume of Alemseged Truneh
Ruben Exhibit 61	RE61	Guo-Liang Yu Notebook Number 143
Ruben Exhibit 62	RE62	Guo-Liang Yu Request for Chromosome Mapping
Ruben Exhibit 63	RE63	Guo-Liang Yu Notebook Number 481
Ruben Exhibit 64	RE64	Declaration of Tim Coleman
Ruben Exhibit 65	RE65	Coleman notebook (Human Genome Sciences, Inc. notebook 258)
Ruben Exhibit 66	RE66	Coleman Autorads
Ruben Exhibit 67	RE67	Phillips et al., 1999, <i>J. Immunol.</i> 162(10):6053-9.
Ruben Exhibit 68	RE68	Declaration of Solange Gentz
Ruben Exhibit 69	RE69	Certain pages of Notebook Number 279
Ruben Exhibit 70	RE70	Certain pages of Notebook Number 126
Ruben Exhibit 71	RE71	Minutes of 18 October 1995 SmithKline Beecham/Human Genome Sciences, Inc. meeting.
Ruben Exhibit 72	RE72	Spread sheet from SmithKline Beecham database
Ruben Exhibit 73	RE73	E-mail of 16 March 1995 from Tan to Truneh
Ruben Exhibit 74	RE74	E-mail of 21 July 1995 from Truneh to Hurle
Ruben Exhibit 75	RE75	E-mail of 18 July 1995 from Truneh to Hurle
Ruben Exhibit 76	RE76	Agenda re 18 October 1995 SmithKline Beecham/Human Genome Sciences, Inc. meeting.
Ruben Exhibit 77	RE77	October 1995 monthly report
Ruben Exhibit 78	RE78	Goodwin et al., <i>European Journal of Immunology</i> 223:2631
Ruben Exhibit 79	RE79	E-mail of 24 October 1995 from Hurle to Truneh
Ruben Exhibit 80	RE80	E-mail of 30 October 1995 from Hurle to Gimmi
Ruben Exhibit 81	RE81	E-mail of 1 November 1995 from Truneh to Ni
Ruben Exhibit 82	RE82	E-mail of 14 November 1995 from Ni to Truneh
Ruben Exhibit 83	RE83	E-mail of 13 February 1996 from Truneh to Young

Exhibit List for 37 C.F.R. § 41.202(d) showing

Ruben Exhibit 84	RE84	E-mail of 26 February 1996 from Young to Gentz
Ruben Exhibit 85	RE85	E-mail of 18 March 1996 from Porter to Appelbaum
Ruben Exhibit 86	RE86	Declaration of Ann Ferrie
Ruben Exhibit 87	RE87	Ann Kim # 3/Human Genome Sciences, Inc. notebook 82
Ruben Exhibit 88	RE88	Ann Kim # 5/Human Genome Sciences, Inc. notebook 127
Ruben Exhibit 89	RE89	Ann Kim # 6/Human Genome Sciences, Inc. notebook 168
Ruben Exhibit 90	RE90	Ann Kim # 7/Human Genome Sciences, Inc. notebook 202
Ruben Exhibit 91	RE91	Ann Kim # 8/Human Genome Sciences, Inc. notebook 236
Ruben Exhibit 92	RE92	Ann Kim # 9/Human Genome Sciences, Inc. notebook 270
Ruben Exhibit 93	RE93	Ann Kim # 10/Human Genome Sciences, Inc. notebook 345
Ruben Exhibit 94	RE94	Ann Kim # 11/Human Genome Sciences, Inc. notebook 405
Ruben Exhibit 95	RE95	Ann Kim # 12/Human Genome Sciences, Inc. notebook 489
Ruben Exhibit 96	RE96	Ann Kim binder of sequencing orders and sequence analysis
Ruben Exhibit 97	RE97	Human Genome Sciences, Inc. project worksheet created by Steven Ruben on 2/2/94 and modified 2/2/94 - Dec 3, 1999 printout
Ruben Exhibit 98	RE98	Human Genome Sciences, Inc. project worksheet created by Ann Kim on 2/8/94 and modified 2/8/94 - Dec 3, 1999 printout
Ruben Exhibit 99	RE99	Human Genome Sciences, Inc. Project worksheet created by Steven Ruben on 2/2/94 and modified 4/14/94 - Dec 2, 1999 printout
Ruben Exhibit 100	RE100	Human Genome Sciences, Inc. HTPAN08XX worksheet sequenced on 6/20/94 and scored 3/12/96
Ruben Exhibit 101	RE101	Human Genome Sciences, Inc. HTPAN08xy worksheet sequenced on 11/15/94 and scored 3/12/96
Ruben Exhibit 102	RE102	Declaration of Steven Ruben
Ruben Exhibit 103	RE103	Chromosomal mapping order form
Ruben Exhibit 104	RE104	Meena Augustus notebook (Human Genome Sciences, Inc. notebook)
Ruben Exhibit 105	RE105	Patent questionnaire
Ruben Exhibit 106	RE106	Nguyen et al., 2000, <i>Forum (Genova)</i> 10:243-52
Ruben Exhibit 107	RE107	Sachs and Lotem, 1993, <i>Blood</i> 82, 15-21
Ruben Exhibit 108	RE108	Suda et al., 1993, <i>Cell</i> 75, 1169-1178
Ruben Exhibit 109	RE109	Cosman, 1994, <i>Stem Cells</i> 12, 440-455
Ruben Exhibit 110	RE110	Nagata, 1994, <i>Phil. Trans. R. Soc. Lond., Series B: Biol. Sci. (England)</i> 345, 281-287
Ruben Exhibit 111	RE111	Nagata, 1994, <i>Adv. Immunol.</i> 57, 129-144
Ruben Exhibit 112	RE112	Schulze-Osthoff, 1994, <i>Trends Cell Biol.</i> 4, 421-426
Ruben Exhibit 113	RE113	Singer et al., 1994, <i>Curr. Opin. Immunol. (England)</i> 6, 913-920
Ruben Exhibit 114	RE114	Nagata, 1994, <i>Semin. Immunol.</i> 6, 3-8
Ruben Exhibit 115	RE115	Nagata et al., 1995, <i>Science</i> 267, 1449-1456
Ruben Exhibit 116	RE116	Watanabe-Fukunaga, 1992, <i>Nature</i> 356, 314-317
Ruben Exhibit 117	RE117	Cohen et al., 1992, <i>Immunol. Today</i> 13, 427-428
Ruben Exhibit 118	RE118	Crispe, 1994, <i>Immunity</i> 1, 347-349
Ruben Exhibit 119	RE119	Lynch et al., 1994, <i>Immunity</i> 1, 131-136
Ruben Exhibit 120	RE120	Takahashi et al., 1994, <i>Cell</i> 76, 969-976
Ruben Exhibit 121	RE121	Nagata et al., 1995, <i>Immunol. Today (England)</i> 16, 39-43
Ruben Exhibit 122	RE122	Schneider et al., 2000, <i>Pharm. Acta Helv.</i> 74:281-6
Ruben Exhibit 123	RE123	Walczak et al., 2000, <i>Exp. Cell Res.</i> 256:58-66
Ruben Exhibit 124	RE124	Roth et al., 1999, <i>Cell. Mol. Life Sci.</i> 56:481-506
Ruben Exhibit 125	RE125	Marsters et al., 1999, <i>Recent Prog. Horm. Res.</i> 54:225-34
Ruben Exhibit 126	RE126	Bonavida et al., 1999, <i>Int. J. Oncol.</i> 15:793-802
Ruben Exhibit 127	RE127	Griffith et al., 1998, <i>Curr. Opin. Immunol.</i> 10:559-63
Ruben Exhibit 128	RE128	Golstein, 1997, <i>Curr. Biol.</i> 7:R750-3
Ruben Exhibit 129	RE129	Xing notebook (Human Genome Sciences, Inc. notebook 351)
Ruben Exhibit 130	RE130	Yu et al., 2000, <i>Cancer Res.</i> 60(9):2384-9.

Exhibit List for 37 C.F.R. § 41.202(d) showing

Ruben Exhibit 131 RE131

Ruben Exhibit 132 RE132

Ruben Exhibit 133 RE133

Ruben Exhibit 134 RE134

Ruben Exhibit 135 RE135

Ruben Exhibit 136 RE136

Ruben Exhibit 137 RE137

Ruben Exhibit 138 RE138

Ruben Exhibit 139 RE139

Ruben Exhibit 140 RE140

Ruben Exhibit 141 RE141

Ruben Exhibit 142 RE142

Ruben Exhibit 143 RE143

Ruben Exhibit 144 RE144

Ruben Exhibit 145 RE145

Ruben Exhibit 146 RE146

Ruben Exhibit 147 RE147

Ruben Exhibit 148 RE148

Ruben Exhibit 149 RE149

Ruben Exhibit 150 RE150

Ruben Exhibit 151 RE151

Ruben Exhibit 152 RE152

Ruben Exhibit 153 RE153

Ruben Exhibit 157 RE157

Ruben Exhibit 158 RE158

Pan et al., 1997, *Science* 277(5327):815-8.

Pan et al., 1997, *Science* 276(5309):111-3.

Letter from James Grinnell authorizing First Federal to deliver magnetic tapes to MicroAge for copying.

Letter from Eric Closs of Microage to James Grinnell reporting receipt of magnetic tapes from First Federal.

Letter from Eric Closs of Microage to James Grinnell reporting duplication of magnetic tapes received from First Federal.

Letter from Eric Closs of Microage to James Grinnell reporting receipt of magnetic tapes from First Federal.

Letter from Eric Closs of Microage to James Grinnell reporting duplication of magnetic tapes received from First Federal.

Declaration of Eric Closs.

Declaration of Marc Langer.

Declaration of Paul Reed.

Declaration of Michele Wales.

Supplementary Declaration of Kathryn Beckman

Supplementary Declaration of Timothy Coleman.

Supplementary Declaration of Edward Dul.

Supplementary Declaration of Ann Ferrie

Supplementary Declaration of Elliot Olstein

Supplementary Declaration of Steven Ruben.

Supplementary Declaration of Kong Tan.

Bharti et al. 2003 *J. Biol. Chem.* 279(7): 6065-76

Kelly et al. 2000 *Cancer Res.* 60: 1021-27.

Page 83 of Ruben Exhibit 2096

Color copy of pages 73-78 of Ruben Exhibit 2096

QIAGEN catalogue (QIAexpressionist)

Identical to Wiley Exhibit 1032, which is a copy Ruben Exhibit 2102 (Declaration of Steven M. Ruben) that carries handwritten corrections entered by Dr. Ruben during his deposition on July 28, 2004.

Identical to Wiley Exhibit 1050, which is a copy Ruben Exhibit 2086 (Declaration of Ann Ferrie) that carries handwritten corrections entered by Ms. Ferrie before and during her deposition on August 4, 2004.

**This Page is Inserted by IFW Indexing and Scanning
Operations and is not part of the Official Record**

BEST AVAILABLE IMAGES

Defective images within this document are accurate representations of the original documents submitted by the applicant.

Defects in the images include but are not limited to the items checked:

- ☐ BLACK BORDERS
- ☐ IMAGE CUT OFF AT TOP, BOTTOM OR SIDES
- ☒ FADED TEXT OR DRAWING
- ☒ BLURRED OR ILLEGIBLE TEXT OR DRAWING
- ☐ SKEWED/SLANTED IMAGES
- ☐ COLOR OR BLACK AND WHITE PHOTOGRAPHS
- ☐ GRAY SCALE DOCUMENTS
- ☒ LINES OR MARKS ON ORIGINAL DOCUMENT
- ☒ REFERENCE(S) OR EXHIBIT(S) SUBMITTED ARE POOR QUALITY
- ☐ OTHER: _____

IMAGES ARE BEST AVAILABLE COPY.

As rescanning these documents will not correct the image problems checked, please do not report these problems to the IFW Image Problem Mailbox.